

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050



March 13, 2001

Ron Manfredi
City Manager
City of Kerman
850 S. Madera Avenue
Kerman, CA 93630-1799

Re: Public Works Case No. 2000-077
County of Fresno Kerman Public Library

Dear Mr. Manfredi:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, Section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the construction of the entire public library ("Project") of the County of Fresno ("County") in the City of Kerman ("City") is a public work subject to the payment of prevailing wages.

William and Kathleen Sebastian ("Sebastians") would like to donate toward the construction of a public library on land owned by City. The County library system will operate the library. Specifically, the Sebastians propose to lease the land and contribute up to \$ 250,000 toward the construction of the shell structure, utilizing its own architect and contractors. City will not charge the Sebastians rent.

The Lease between City and Sebastians ("Sebastian Lease") provides that, when the construction of the structure is completed, the Sebastians will donate the structure to City and the Sebastian Lease will end. The Sebastian Lease is contingent upon the County agreeing to pay all the construction costs for the completed building above the \$250,000 cap.¹ The Sebastian Lease is also contingent upon the execution of a lease between County and City ("County Lease") under which County would operate the library. The Sebastian Lease requires City to prepare plans

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After all agreements are finalized, the architect will breakdown the components. The Sebastians will build what they can pay for within their cap, and County will pay for the rest of the construction of the building.

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for the construction of the interior improvements to the library. The County Librarian must approve the plans for both the structure and the interior improvements. City will obtain the necessary permits to finish the exterior and interior of the structure at the same time as the Sebastians obtain the necessary permits for the structure. City will waive all plan check and permit fees. City will also do the site preparation work, including installation of utilities, parking lot, and landscaping. The Sebastian Lease contains a restriction on how the structure can be used during its useful life, which is agreed to be 50 years.

The County Lease is contingent on the Sebastians completing the work within their funding cap and on the approval of the design of the finished building by the County Librarian. City is to do all the construction, other than that performed by the Sebastians. County will pay City for the construction costs associated with finishing the exterior and constructing the interior improvements. If County ceases to operate a library on the site, the County Lease will terminate, and the building will revert to City to use the completed building within the restrictions of the Sebastian Lease. During the construction of the structure, City will construct parking areas, landscaping, exterior lighting, and sidewalks. County will pay for maintenance and utilities.

City will pay prevailing wages to workers on the construction it performs, other than the shell structure. City would like to use the same contractor as the Sebastians for continuity sake but cannot do so unless this contractor is the low bidder on the construction phases wholly paid for by public funds.

Labor Code Section 1720(a) defines public works to mean: "Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds..." Here, the finished library is clearly construction done under contract and paid for in part by public funds. The library construction is of a single structure supervised overall by City. While the Sebastians have donated up to \$ 250,000 toward the construction of the shell for the library, the balance of the

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Project funds for the shell, interior improvements and the infrastructure are public funds. For these reasons, the Project is a public work for which prevailing wages must be paid.

Sincerely,

A handwritten signature in cursive script, reading "Stephen J. Smith". The signature is written in dark ink and is positioned above the printed name and title.

Stephen J. Smith
Director